

1 be done quarterly, so that's what I put down.

2 BY MR. SHOOK:

3 Q. You filled out a form for Buzz Telecom
4 just to get something in front of the FCC?

5 A. Just to make sure that they were
6 registered and the process was started when it
7 was supposed to be started. So it didn't wind up
8 being something that was, say, this year and it's
9 already three quarters behind. I wanted to make
10 sure it was started on time.

11 Q. Other than the two documents that we
12 had looked at previously, the June 26 document
13 from yourself and the July 5 document from
14 Kurtis, are you aware of any discussions
15 involving the need to file FCC form 399-A or Q?

16 MR. HAWA: 499.

17 MR. SHOOK: 499. Did I say 399? 499.

18 THE WITNESS: See, it's easy to get
19 confused on these forms.

20 MR. SHOOK: Absolutely.

21 THE WITNESS: No. No, I'm not. I'm

1 pretty sure that it was turned over to Kurtis.
2 At this point, I knew that I was no longer going
3 to be there, so I thought it was best to leave it
4 to him and the professionals.

5 BY MR. SHOOK:

6 Q. At this point, you're talking about
7 the October, 2002 time frame?

8 A. Yes.

9 Q. Which is related to the preparation
10 and filing of the 499-A for Buzz?

11 A. Correct.

12 Q. The next document I want to show you
13 is Bate Stamp 00705. There's some handwriting on
14 it, so it's not entirely clear to me what the
15 date is. But it appears to be 7-8-02.

16 A. What this looks like is, I wrote an
17 initial letter to Kurtis and Keanan. Keanan
18 responded. So my response was to write a rough
19 draft and forward it to Kurtis. And then I would
20 assume that I got it red-penned, a copy of a
21 letter back to him. And then it would be

1 finalized and I would send it out.

2 Q. And this concerns something going on
3 with the Maine PCU.

4 A. Slamming complaints from the State of
5 Maine.

6 Q. Do you remember anything specific
7 about what the Maine PUC was concerned about?

8 A. I think we had a similar problem to
9 that in Vermont where we had something missing
10 from the verification scripts. So we were
11 sending them over taped verifications, but they
12 didn't find them valid.

13 Q. And apparently, there's a fairly large
14 number of complaints?

15 A. Uh-huh. I don't remember the exact
16 number. We had almost 100 complaints in Alabama,
17 so I guess it would be around that number.

18 Q. In terms of the handwritten note that
19 appears from Keanan, it looks like it's dated
20 7-12, he's asking you to do something.

21 A. What I'm saying to them is, "Do you

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1 want me to -- here's all the information. Do you
2 want to write a response." The reason I sent
3 this is because Kurtis had recently before this
4 taken the Kansas information from me and written
5 his own response. So I was giving him the
6 opportunity to do so again. Keanan wanted me to
7 just write a letter and let Kurtis review it.
8 And if he liked it or didn't like it, he could
9 scratch it out and I would make the changes he
10 would request. Usually, I would write a
11 rough-draft letter in any situation and give it
12 to them. And they would change as they thought
13 appropriate.

14 Q. The next document bears a date of
15 7-18-02. It's Bate Stamp 00701.

16 A. This is, again, concerning Mike
17 Norville, the complaints.

18 Q. And Tom Greenberg (phonetic) is who?

19 A. He was our attorney at the time for
20 EEOC matters.

21 Q. And in terms of the people this is

1 sent to, the board, that's supposed to be Kurtis
2 and Keanan?

3 A. Yes.

4 Q. And CA is you?

5 A. Yes.

6 Q. The next document I'm going to show
7 you is Bate Stamp 00700 dated 7-18-02.

8 A. Russ Millbranth is or was at the time
9 our attorney handled corporate issues like
10 updating our books and that type of thing. What
11 we had done is, I had drafted agreements between
12 Avatar and all the other companies just to try to
13 differentiate what went where. And we had turned
14 over those agreements and all of our corporate
15 books to him. And he was rewriting them do be
16 what Kurtis and Keanan wanted. So that's just me
17 telling them that I was giving him books and as
18 much information as he needed.

19 Q. So you're simply updating Keanan on a
20 situation involving the corporate books?

21 A. Basically, yes. I would -- if

1 something went to an attorney, I would be their
2 contact to get them any information they needed.
3 And then when they wanted to work on specifics,
4 they would call Kurtis and Keanan and sort it
5 out.

6 Q. So in terms of president, the
7 president is Keanan?

8 A. Uh-huh.

9 Q. And then the cc for the COB, that
10 means that a copy was sent to Kurtis?

11 A. Correct. At various times, I would
12 report to one or the other. It would kind of
13 depend who was in town or who was out for a
14 period. But I would specifically report to
15 Keanan for a period, then to Kurtis. And
16 typically when I was reporting to Keanan, I would
17 always cc Kurtis so he could be kept up on what
18 was going on.

19 Q. The next document I want to show you
20 is dated July 20, 2002. And it's Bate Stamp
21 00693.

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1 A. This is a note. I had sent Keanan a
2 note requesting that we implement a scrubbing
3 system for leads because we were calling people
4 who were either on do not call lists or what have
5 you. And I thought that we should implement a
6 system. And he felt that I should implement the
7 system. I felt that it was the responsibility of
8 our operations people because they actually did
9 all of our programming and handled our database.
10 And I didn't have the knowledge to do it. So
11 he's sending the note back saying basically, you
12 do it.

13 Q. So he's basically telling you to do
14 something, but not necessarily giving you what
15 you needed in order to get it done?

16 A. Yes. He kind of wanted me to figure
17 it out.

18 Q. The next document is Bate Stamp 00697.
19 It's dated July 23, 2002.

20 A. This was written by Kurtis. Basically
21 what he's saying is that we're not handling the

1 information coming from the EEOC in a timely
2 manner. The reason that I walked the letter in
3 to him and showed him is because I had just
4 gotten it from Tom Greenberg (phonetic). Tom,
5 being our attorney on those kind of matters, I
6 kind of trusted his opinion for the speed with
7 which something had to get in. And he told me
8 that he had requested the time already. So, I
9 guess, Kurtis felt that we were not rushing
10 things along the way that it should have been
11 done.

12 Q. When you mentioned that Tom had
13 already requested a different time, are you
14 referring to the response that had to be filed
15 and that he had already received an extension of
16 time to file that response?

17 A. He left a message for his contact at
18 the EEOC requesting a response which he
19 conditioned a guarantee that they would issue it.
20 That was standard protocol. He had not received
21 a response yet. He received it a day or two

1 later and it was granted. And then another
2 extension and then another extension. I guess
3 it's common that that happens.

4 Q. So, in fact, the matter referred to
5 here by Kurtis was not actually late?

6 A. It wasn't late. It was technically
7 late according to the letter. And Kurtis just
8 wanted to, I guess, you know, tell us to get
9 going on it. He wanted it handled faster than it
10 was being handled.

11 Q. The next document that I want you to
12 take a look has Bate Stamp Numbers 00841 and
13 00842. It appears to be a draft letter. It
14 bears the date of July 24, 2002.

15 A. This is the response letter that we
16 previously discussed.

17 Q. Was this letter actually -- or a
18 variant of this letter actually sent to the State
19 of Maine?

20 A. I don't remember if it was exactly
21 that one. But something of that nature went to

1 them, yes.

2 Q. This letter is meant to do what?

3 A. More than anything else, just begin
4 the discussions on how we were going to handle
5 the situation.

6 Q. In terms of the slamming complaints?

7 A. Yes.

8 Q. So among other things, this explains
9 to the State of Maine the process that Business
10 Options had used to verify?

11 A. Correct.

12 Q. There's a -- the fourth paragraph in,
13 the first sentence reads "We have discontinued
14 the practice of resubmitting orders of customers
15 who have dropped off of our service." What is
16 that all about?

17 A. That is, again, the reprovisioning of
18 people who had been off -- they were on for a
19 week or so and then dropped off. And we
20 reprovisioned them.

21 Q. And so you're informing the State of

1 Maine at this point that you're going to
2 discontinue that practice?

3 A. Yes.

4 Q. Or you had discontinued that practice?

5 A. We had discontinued, yes.

6 Q. And that discontinuance was for all
7 customers or simply customers in the State of
8 Maine?

9 A. I believe in the State of Maine.

10 Q. But it continued with respect to other
11 customers for a period of time?

12 A. I believe so.

13 Q. Do you know whether the practice
14 continued up to the time that you left the
15 company?

16 A. I don't know. I would assume that it
17 did. I know that in specific areas, I would send
18 a note and ask that it not happen. And they
19 would stop doing it. The State of Maine, what
20 they wanted us to do was call each customer back
21 and reverify. And I made that suggestion. And

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1 that was considered not time effective. So I
2 asked them to just stop doing it period. And
3 they did so.

4 Q. "They," being the salespeople or the
5 people under Elizabeth?

6 A. The people under Elizabeth. They
7 would have had to call, it would have been
8 Shalanda Robinson. And basically the people who
9 have called would have been the customer service
10 representatives. They would have called and
11 said, "We're going to reprovision you." And they
12 didn't see that it was time effective in
13 accordance with the cost and the income that we
14 would derive from it.

15 Q. Taking a look at the paragraph that
16 begins toward the bottom of the pages and carries
17 over to the next sentence where it speaks of "Any
18 sales representative who dealt with a customer in
19 a deceptive fashion." What is -- how did you
20 come to that knowledge?

21 A. Because of the taping. We would

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1 listen to their tapes. And some you would
2 hear -- some reps would say, "This is so-and-so
3 from Business Options. I'm calling to sell you
4 the AT&T product." Or something like that. And
5 once you hear that, they had to be fired
6 immediately. And you have people who do that.
7 So as soon as we would hear something like that,
8 they were gone.

9 Q. Who would actually do the -- this is
10 in July of 2002. Who would do the firing at that
11 point of such individuals?

12 A. It would have been Kelly Adwell if she
13 was still with the company or Gene.

14 Q. Did Kelly Adwell report to Gene?

15 A. Yes.

16 Q. For what period of time did Kelly
17 report to Gene?

18 A. From his start until she left the
19 company. I think that he started sometime in
20 May. And she was there for two or three months
21 before she left.

1 Q. The next document I want to show you
2 is dated 8-5-02. It's Bate Stamp 00989. It
3 appears that there are some other documents that
4 go with it. So let me hand you those. Bate
5 Stamp 00990 through 00993.

6 A. If I remember correctly, this was a
7 program where we were going to, once we had
8 someone on our service, go through our database
9 of customers and sell them websites and web
10 hosting, web design, that kind of thing. And
11 this was -- what we did is, we requested some
12 information from USBI about fees. They said,
13 "Well, if you're going to charge fees on
14 someone's telephone bill, you have to get
15 scripts, welcome letter, everything approved by
16 us." And that's why that went out to USBI.

17 Q. And in terms of the compliance report,
18 to whom it was directed, COB would be Kurtis?

19 A. Correct.

20 Q. And via A/COB, what's that?

21 A. Assistant chairman of the board.

1 That's basically his administrative assistant.

2 Q. And then underneath the underlined
3 corporate affairs, that would be you?

4 A. That's me, correct.

5 (A short break was taken.)

6 Q. The next document I'm going to show
7 you is a five-page document. It's Bate Stamp
8 00817 through 00821. I only have a couple of
9 questions. And the first one is, have you ever
10 seen this letter before?

11 A. I can't say that I've seen this
12 specific letter before. But I have seen letters
13 concerning the Josh Child's (phonetic) incident.

14 Q. And Thomas Greenberg is whom?

15 A. He's our attorney that handles
16 anything concerning human resources or EEOC or
17 anything like that.

18 Q. In terms of the -- the part that I'd
19 like you to focus on is subpart A which talks
20 about the respondent's and the employer's
21 business. If you could, just read that material

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1 to yourself.

2 (Witness Reviewing Document).

3 Q. Do you know the source of Mr.
4 Greenberg's information?

5 A. Me, more than likely.

6 Q. More than likely?

7 A. Myself or Kurtis. We're the only ones
8 who ever spoke to him.

9 Q. From what you've read there, would it
10 be your belief that the information that Mr.
11 Greenberg has stated is accurate?

12 A. Yes.

13 Q. Next is a memo dated 9-4-02. It's
14 Bate Stamp 00890. It looks like it's to COB and
15 it's from CA. What is going on here?

16 A. This is the case in Maine where they
17 had slamming complaints. And I had a conference
18 call with the representatives there basically to
19 try to step forward on sorting out the case.

20 Q. And it's -- according to this memo,
21 it's Maine's position that there are 76 clear

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1 violations of whatever?

2 A. Yes.

3 Q. Toward the end, there's a reference to
4 the sales manager at the time has been dismissed
5 although Mike was actually the sales manager for
6 most of the period, I believe, that Albert had
7 blatantly allowed the staff to lie. Who is the
8 Mike referring to?

9 A. Mike Norville.

10 Q. And the reference to the sales
11 manager, who was that supposed to be?

12 A. Mike was the sales manager for a time
13 before he got promoted. Albert Peers was a sales
14 manager for a very short period of time. He was
15 promoted after Mike's indefinite suspension. And
16 he wrote his own script that he distributed to
17 the staff without our knowledge. It was just a
18 blatant, "I'm calling from AT&T" type of script.
19 And he called Maine -- I think it was just Maine,
20 possibly Maine and Vermont -- for a couple of
21 weeks. We discovered the script and fired him.

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1 Q. Who is the "we"?

2 A. Somebody from verifications brought it
3 to, I think, they brought it to Gene's attention.
4 And he came and asked me if I had approved any
5 changes to the script. I said no. They went in
6 and discussed it with Albert. And Albert felt
7 that he had the right to change the script to
8 anything he wanted to get sales numbers. He
9 wasn't. So he was dismissed.

10 Q. Do you have any knowledge as to
11 whether the sales script in question came to
12 anybody else's attention besides Gene and
13 yourself?

14 A. I know that it came to Kurtis and
15 Keanan's attention after we discovered it. I
16 think Kurtis was actually the person who fired
17 the guy. As far as I know, nobody in any
18 managerial position besides Albert and
19 potentially Kathy Olive had any knowledge of it
20 until we found out.

21 Q. And the person that you were talking

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1 about being fired, that's Albert?

2 A. Albert Peers, P-E-E-R-S.

3 Q. This is a real long shot here, do you
4 happen to know if he's still in the area?

5 A. I have no idea.

6 Q. He's the not a guy you've kept up
7 with?

8 A. No. He was with us probably for a
9 two-month period. And he was high sales. And we
10 were looking for somebody who was an older guy
11 probably in his mid or late 30s compared to the
12 rest of our sales staff. And he had constantly
13 been asking to be put in a managerial position.
14 And they elected to do so.

15 Q. And "they" is whom?

16 A. Kurtis and Keanan.

17 Q. From what you're telling me, I'm
18 drawing the inference that you and Gene did not
19 find out about the problematic sales script until
20 after the State of Maine brought it to the
21 attention of the company?

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1 A. Correct. Well, no. I think we found
2 out before they brought it to our attention, but
3 just before. I think that we were going through
4 the internal turmoil, figuring out what to do
5 when they called and said, "Hey, we got a bunch
6 of complaints." And then we had to deal with
7 that also.

8 Q. Did you actually see the sales script
9 that made the reference to AT&T?

10 A. I don't remember if it was
11 specifically AT&T. But they were claiming that
12 they were one of the big three. I saw a copy of
13 it. Basically what he did is, he had made a lot
14 of sales. And people would come up and say,
15 "Hey, what are you doing that you can make these
16 sales?" He'd say, "Well, let me write something
17 down for you." So he'd write out the script for
18 them and give it to them. And then someone to
19 come to them and say, "Hey, why as you doing
20 this?" So in that way, it got disseminated to
21 most of the staff. There were certain staff

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1 members who had been with us for a while who
2 said, "I'm not going to use that script" because
3 they knew better. But salespeople, especially
4 telemarketers, are not a very disciplined group
5 to begin with. So if we were on them constantly,
6 it was very easy for things to get out of hand
7 very quickly.

8 Q. And this activity with respect to
9 Albert occurred under Gene's watch?

10 A. I don't think Gene was there when he
11 got started. This is -- Albert worked as the
12 sales manager. He worked for Kurtis. Kurtis
13 would have then been the VP of sales just because
14 there was no person in that slot.

15 Q. Did this take place during the period
16 of time after you were no longer VP of
17 administration?

18 A. Correct.

19 Q. But before Gene came on the scene?

20 A. I think it started before Gene. He
21 may have gotten there right as we were sorting it

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1 out.

2 Q. But Gene knew that Albert had done
3 this?

4 A. No. He found out. He found out and
5 brought it to me. As soon as he found out, he
6 put an end to it. He didn't know of it
7 while it was occurring.

8 Q. Did Gene fire Albert?

9 A. I don't know if Gene fired him or
10 Kurtis fired him.

11 Q. But the firing took place while Gene
12 was VP of administration?

13 A. I believe so.

14 Q. If there's a personnel record, of
15 course it would reflect the time, the exact time?

16 A. Yes. I know that I didn't fire him.
17 The possibilities are Gene and Kurtis. Possibly
18 Kelly Adwell, but probably not because he was a
19 manager. And usually you wouldn't have a manager
20 fire another manager. So I would assume that
21 Kurtis or Gene did it.

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1 Q. All the cc's on the bottom, the cc to
2 the president, is that supposed to be Keanan?

3 A. Yes.

4 Q. And VPX, who is that supposed to be at
5 this time?

6 A. Kurtis at that time.

7 Q. VPA would be Gene?

8 A. Uh-huh.

9 Q. And VPO would be Elizabeth?

10 A. Yes.

11 Q. The next document I want to show you
12 is dated 10-2-02. It's Bate Stamp 00688.

13 A.

14 (Witness Reviewing Document.)

15 Q. In terms of "to the board," is that
16 supposed to be Kurtis and Keanan?

17 A. Correct.

18 Q. Anybody else?

19 A. No.

20 Q. CA is you?

21 A. Yes.

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1 Q. And the cc's, again, the VPA would be
2 Gene, the VPO would be Elizabeth and VPX would
3 be?

4 A. Kurtis.

5 Q. Kurtis.

6 A. No. Unless -- in October, by then,
7 Mike was back in that position.

8 Q. Mike, as in Norville?

9 A. Mike Norville, yes.

10 Q. And you're updating the Tennessee
11 situation. What's going on with Tennessee?

12 A. The State of Tennessee, our licensing
13 with their PUC was revoked almost immediately
14 back in '96 or '97 when they got licensed, we
15 were not aware of this. We were selling there.
16 And we got a couple complaints. And they said,
17 "Hey, wait a second. You guys are not licensed."
18 The reason it was revoked is because you have to
19 issue a surety bond to the state. We did not do
20 so. So I went through the process of getting
21 relicensed. And this is saying -- telling them

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1 basically that we have a surety bond. It's being
2 done. And then we'll be okay to sell there
3 again.

4 Q. I tried to keep this chronological and
5 I messed up a little bit here. What I'm going to
6 show you now is a document that bears a date of
7 September 5, 2002. And it's Bate Stamp Numbers
8 05512 through 05524.

9 (Witness Reviewing Document).

10 Q. In addition to all the other wonderful
11 things we've been talking about, you have to be
12 involved in tariffs?

13 A. Yes.

14 Q. What exactly are we looking at here?

15 A. That looks like our implication to be
16 licensed as a resaler in Nevada.

17 Q. And this was a document that you
18 prepared?

19 A. Yes.

20 Q. And the first page bears your
21 signature?